

April 27, 2017

Delta Stewardship Council Members and Staff

980 9th Street, Suite 1500

Sacramento, CA 95814

Re: Comments on Revised Discussion Draft of Proposed Delta Plan Amendment
Regarding Conveyance, Storage Systems, and the Operation of Both (Water Code
85304. Friday, April 28, 2017. Item 14.

Dear Delta Stewardship Council Chair Fiorini, Council Members, and Staff:

I speak on behalf of the San Joaquin Audubon Society concerning the proposal to amend the Delta Reform Act. Current law states that no method of conveyance can be adopted or preferred until a comprehensive review and analysis is performed (Section 85086c2, attached). Furthermore, the law states (Section 85089a-b, attached) that the persons or entities that contract to receive the water pay for all aspects of the plan. This includes the environmental review, planning, full mitigation of property, etc. Until those receiving benefit from any new conveyance method have met the requirements, it is impossible, under the law, to designate any method of conveyance as a preferred option.

It is the opinion of the San Joaquin Audubon Society that Construction of the Twin Tunnels (California Water Fix and Eco Restore) will adversely harm avian populations that inhabit or migrate through the San Joaquin/Sacramento Delta. The proposal names two species of birds that are endangered or threatened (Western yellow-billed cuckoo and California least tern); but, it omits the Greater sandhill crane, Bald eagle, Northern flicker, Willow flycatcher, Swainson's hawk, California black rail, California clapper rail, Loggerhead shrike, and California towhee, all of which are on the California list of "Threatened and Endangered Birds," (Copy

attached). All the birds listed above live in and nest, or migrate through the Delta. It is essential that these birds and the habitats which are required for their survival are protected. It will be very difficult for a proposed ten-year construction project in the Delta not to impact the survival of these species. Changes in water flows, stagnation, and potential loss of habitat will cause further harm.

The Twin Tunnels are designed to convey 4.9 million acre feet of water per year to the pumps in Clifton Court Forebay. Removal of 4.9 million acre feet of water from the Sacramento River will decrease Delta water outflow to San Francisco Bay and enhance the intrusion of salt water into the Delta. The pumps at Clifton Forebay currently pumps 5 to 7 million acre ft of water per year to Southern California. There is no plan to decrease the amount of water currently being pumped; thus, removal of additional water flow through the Delta can only lead to increased stagnation and salinity.

There is no guarantee that any water will be pumped in drought years. Climate change makes it nearly impossible to predict what will happen with precipitation in the State. It is highly possible that the Twin Tunnels will never be used.

The Nation Audubon Society lists the Sacramento-San Joaquin Delta among the Important Bird Areas in the United States. The Delta is an ecological and recreational treasure and must be protected.

Respectfully Submitted

David S. Fries, Ph. D.


Conservation Chair

San Joaquin Audubon Society

Section from the Delta Reform Act

85086. (a) The board shall establish an effective system of Delta watershed diversion data collection and public reporting by December 31, 2010.

(b) It is the intent of the Legislature to establish an accelerated process to determine instream flow needs of the Delta for the purposes of facilitating the planning decisions that are required to achieve the objectives of the Delta Plan.

(c) (1) For the purpose of informing planning decisions for the Delta Plan and the Bay Delta Conservation Plan, the board shall, pursuant to its public trust obligations, develop new flow criteria for the Delta ecosystem necessary to protect public trust resources. In carrying out this section, the board shall review existing water quality objectives and use the best available scientific information. The flow criteria for the Delta ecosystem shall include the volume, quality, and timing of water necessary for the Delta ecosystem under different conditions. The flow criteria shall be developed in a public process by the board within nine months of the enactment of this division. The public process shall be in the form of an informational proceeding conducted pursuant to Article 3 (commencing with Section 649) of Chapter 1.5 of Division 3 of Title 23 of the California Code of Regulations, and shall provide an opportunity for all interested persons to participate. The flow criteria shall not be considered predecisional with regard to any subsequent board consideration of a permit, including any permit in connection with a final BDCP.

(2) Any order approving a change in the point of diversion of the State Water Project or the federal Central Valley Project from the southern Delta to a point on the Sacramento River shall include appropriate Delta flow criteria and shall be informed by the analysis conducted pursuant to this section. The flow criteria shall be subject to modification over time based on a science-based adaptive management program that integrates scientific and monitoring results, including the contribution of habitat and other conservation measures, into ongoing Delta water management.

(3) Nothing in this section amends or otherwise affects the application of the board's authority under Part 2 (commencing with Section 1200) of Division 2 to include terms and conditions in permits that in its judgment will best develop, conserve, and utilize in the public interest the water sought to be appropriated.

(d) The board shall enter into an agreement with the State Water Project contractors and the federal Central Valley Project contractors, who rely on water exported from the Sacramento River watershed, or a joint powers authority comprised of those contractors, for reimbursement of the costs of the analysis conducted pursuant to this section.

(e) The board shall submit its flow criteria determinations pursuant to this section to the council for its information within 30 days of completing the determinations.

85087. The board, by December 31, 2010, shall submit to the Legislature a prioritized schedule and estimate of costs to complete instream flow studies for the Delta and for high priority rivers and streams in the Delta watershed, not otherwise covered by Section 85086, by 2012, and for all major rivers and streams outside the Sacramento River watershed by 2018. In developing this schedule, the board shall consult with the Department of Fish and Game as to the

timing of its submission of recommendations for instream flow needs.

85088. Until the board issues an order approving a change in the point of diversion of the State Water Project and the federal Central Valley Project from the southern Delta to a point on the Sacramento River as specified in subdivision (c) of Section 85086, the department shall not commence construction of any diversion, conveyance, or other facility necessary to divert and convey water pursuant to the change in point of diversion.

85089. Construction of a new Delta conveyance facility shall not be initiated until the persons or entities that contract to receive water from the State Water Project and the federal Central Valley Project or a joint powers authority representing those entities have made arrangements or entered into contracts to pay for both of the following:

(a) The costs of the environmental review, planning, design, construction, and mitigation, including mitigation required pursuant to Division 13 (commencing with Section 21000 of the Public Resources Code), required for the construction, operation, and maintenance of any new Delta water conveyance facility.

(b) Full mitigation of property tax or assessments levied by local governments or special districts for land used in the construction, location, mitigation, or operation of new Delta conveyance facilities.

CALIFORNIA DEPARTMENT OF FISH and WILDLIFE



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Threatened and Endangered Birds

Species Accounts

The list below provides access to species accounts for 33 species and subspecies of birds listed as either threatened or endangered by the State of California or the federal government. This list is provided in alphabetical order, by the general name of the animal (for example: eagle, rail, sparrow, etc).

Each species account contains the latest status report from the Department of Fish and Wildlife's periodic report on the status of these species. Each account also may contain links to additional, available status or life history information.

The list and the accompanying species accounts may not be complete or reflect the current legal status of these birds because of listing activities more recent than the status accounts in the links below. The current legal status for each species [is provided online](#) and is updated quarterly.

For more information on the species listed below, use the CDFW's [Species Explorer](#). Please note, the Species Explorer is still being worked on. Not all species might appear in the database.

Common Name	Scientific Name
Albatross, short-tailed	(<i>Phoebastria albatrus</i>)
Condor, California	(<i>Gymnogyps californianus</i>)
Crane, greater sandhill	(<i>Grus canadensis tabida</i>)
Cuckoo, western yellow-billed	(<i>Coccyzus americanus occidentalis</i>)
Eagle, bald	(<i>Haliaeetus leucocephalus</i>)
Flicker, gilded northern	(<i>Colaptes auratus chrysoides</i>)
Flycatcher, willow	(<i>Empidonax traillii</i>)
Flycatcher, southwestern willow	(<i>Empidonax traillii extimus</i>)
Gnatcatcher, coastal California	(<i>Polioptila californica californica</i>)
Goose, Aleutian Canada (RECOVERED)	(<i>Branta canadensis leucopareia</i>)
Hawk, Swainson's	(<i>Buteo swainsoni</i>)
Murrelet, marbled	(<i>Brachyramphus marmoratus</i>)
Owl, great gray	(<i>Strix nebulosa</i>)
Owl, northern spotted	(<i>Strix occidentalis caurina</i>)
Owl, elf	(<i>Micrathene whitneyi</i>)
Plover, mountain	(<i>Charadrius montanus</i>)
Plover, western snowy	(<i>Charadrius alexandrinus nivosus</i>)
Rail, California black	(<i>Laterallus jamaicensis coturniculus</i>)

Rail, California clapper	(<i>Rallus longirostris obsoletus</i>)
Rail, light-footed clapper	(<i>Rallus longirostris levipes</i>)
Rail, Yuma clapper	(<i>Rallus longirostris yumanensis</i>)
Shrike, San Clemente loggerhead	(<i>Lanius ludovicianus mearnsi</i>)
Sparrow, Belding's savannah	(<i>Passerculus sandwichensis beldingi</i>)
Sparrow, San Clemente sage	(<i>Amphispiza belli clementeae</i>)
Swallow, bank	(<i>Riparia riparia</i>)
Tern, California least	(<i>Sterna antillarum browni</i>)
Towhee, Inyo California	(<i>Pipilo crissalis eremophilus</i>)
Vireo, Arizona Bell's	(<i>Vireo bellii arizonae</i>)
Vireo, least Bell's	(<i>Vireo bellii pusillus</i>)
Woodpecker, Gila	(<i>Melanerpes uropygialis</i>)

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